

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 17,611
)	
Appeal of)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that her disabled husband is not eligible for regular VHAP benefits because he is eligible for Medicare coverage.

FINDINGS OF FACT

1. The petitioner lives with her disabled husband and their twenty-year-old son. The petitioner herself has income of \$911 per month from unemployment compensation. Her husband receives \$558.30 per month in Social Security benefits and has Medicare Part A coverage, but has opted not to purchase Medicare Part B. Her son does not work due to medical problems.

2. The petitioner applied for VHAP benefits for her entire family last January. She and her son were found eligible for VHAP benefits based on the family's income. However, a notice dated January 31, 2002, advised the

petitioner that her husband was eligible only for VHAP Pharmacy benefits.

3. The petitioner called PATH's office of medical assistance to ask why her husband was not eligible for regular VHAP benefits. She was told that it was because he was eligible for Medicare coverage. She was told that even though he had opted not to buy Part B coverage, he could not receive VHAP benefits if he was eligible for such coverage.

4. The petitioner disagrees with this decision. Her husband's Medicare Part A only covers inpatient hospital stays and home health care. Without Part B, he cannot get doctor's services, diagnostic tests, or ambulance service. The decision not to buy this medical coverage was based on limited finances. In February of this year, her husband had a medical emergency in which he incurred \$1,800 in medical bills not covered by Part A of his coverage such as ambulance service. The petitioner is aware that her husband is categorically eligible for Medicare once he meets a spend-down requirement.

ORDER

The decision by the Department is affirmed.

REASONS

The general coverage VHAP program is one that was instituted to provide health access to low-income persons who are uninsured. Medicaid Manual (MM) 4000. The regulations adopted pursuant to this program provide that persons are "uninsured" if, among other reasons, they do "not qualify for Medicare". M.M. 4001.2. The converse of this is that persons who are qualified for Medicare are considered insured and are thus ineligible. PATH considers any person qualified for Medicare as ineligible for this program regardless of whether he/she has opted to purchase any program offered under Medicare.¹

The Board has considered this question before and has determined that it was reasonable for the Department to enact such an exclusion in order to assist more low-income persons who have no affordable health insurance program available to them. See Fair Hearing Nos. 15,548 and 17,430. Although some expense is involved in paying for Medicare coverage, it is very small compared to the cost of private health insurance. It is not unreasonable for PATH to expect that those who can

¹ The VHAP Pharmacy program considers a person to be "uninsured" if he doesn't have an insurance plan that pays for prescription drugs. M.M. 3301.3. As Medicare would not cover these expenses, the petitioner's husband was found eligible for this program.

be covered by that government subsidized program should turn to it for help rather than this program which is intended for those with nowhere else to turn. As the Department's decision is consistent with its validly adopted regulation, the decision must be upheld by the Board. 3 V.S.A. § 3091(d).

Fair Hearing Rule No. 17.

#